

IN THE DRAWINGS

Please substitute the replacement sheet containing Fig.4 (submitted herewith) for Fig.4 as filed.

REMARKS

The Official Action of July 19th 2007 has been carefully considered and reconsideration of the application as amended is respectfully requested.

Claim 1 has been amended such that the comma between "rear" and "end" is no longer present. Furthermore the term "cup shaped" has been removed from claim 1 and the claim has been amended to specify that the first container (3) comprises at least one first hole sized to permit insertion of a user's finger. Support for this recitation appears in the application as filed (see for example page 7 lines 18-23).

Furthermore claims 2, 5 and 24 have been amended to meet the requirements of 35 U.S.C. 112 and claim 6 has been deleted.

The Examiner submits that the declaration is defective because it does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Applicants respectfully submit that the final paragraph of page 1 of the declaration (copy enclosed) meets this requirement.

35 U.S.C. 112

The Examiner submits that claims 1-25 are rejected on the basis that they do not comply with the written description requirement and that they are indefinite. The Examiner objects to the term "cup shaped" and also submits that the claims contain subject matter that was not described in the specification.

In response the term "cup shaped" has been deleted. Furthermore Applicant submits that the specification as filed clearly shows that Applicant had possession of the invention now claimed as of the application filing date such that it complies with the written description requirement (see MPEP 2163.02). The present invention relates to an article which comprises a rigid carton which contains packets of cigarettes. The rigid carton has a first container wherein the cigarette packets are positioned and a second container which houses the first container. The first container has first holes in the base whilst the second container may have a hole in the end.

It can be seen that when the first container is partially removed from the

second container the cigarette packets can be removed. However it can also be seen that if the user were to insert one's finger into a hole in the base of the first container this would have the effect of pushing the cigarette packet from the first container and hence assist in removal.

The Examiner submits that there is no basis in the specification for this embodiment and in response Applicant submits that page 6 lines 11-20 the original specification discloses;

In the embodiment shown in Figures 1, 2 and 3, end wall 10 of container 5 has a hole 17 (Figure 3) shaped and sized to permit insertion of the user's finger. By way of example, the hole 17 shown in Figure 5 is rectangular with rounded corners, and ranges in size between 20 x 15mm and 30 x 20 mm. The purpose of hole 17 is to assist extraction of container 3 from container 5, as of the closed position, by enabling the user to push on rear end wall 16 of container 3. In a variation not shown, wall 10 may be dispensed with entirely.

Furthermore page 7 lines 18-23 discloses;

In a further embodiment not shown, bottom wall 13 of container 3 comprises, for each packet 2 of cigarettes, a through hole sized to permit insertion of the user's finger, and which is located at the bottom wall of respective packet 2 of cigarettes to assist extraction of packet 2 of cigarettes from container 3.

Accordingly Applicant submits that the original specification as filed discloses that end wall 10 of container 5 may have a hole 17 shaped and sized to permit insertion of the user's finger (see claim 5). Furthermore the original specification discloses that the bottom wall 13 of container 3 can have a through hole shaped and sized to permit insertion of the user's finger for each cigarette packet.

Figure 4 has been amended such that the through hole is shown in dot lines having reference sign "H" to show the feature as claimed in claim 1. Since as discussed above the subject matter being added to the drawing is sufficiently disclosed in the application as filed amended Figure 4 does not add any new subject matter (see MPEP 608.01(I)).

35 U.S.C. 102 and 35 U.S.C. 103(a)

The Examiner alleges that claims lack novelty and inventive step over the cited art. Applicant respectfully traverses these rejections.

The present invention relates to an article which comprises a rigid carton which contains packets of cigarettes. The rigid carton has a first container which accommodates the cigarette packets and a second container which houses the first container. The bottom wall of the first container has a through hole shaped and sized to permit insertion of the user's finger for each cigarette packet which assists the user in removing the cigarette packets from the first container.

Applicant submits that the none the cited references provides a disclosure with the above mentioned features and hence the claims are novel.

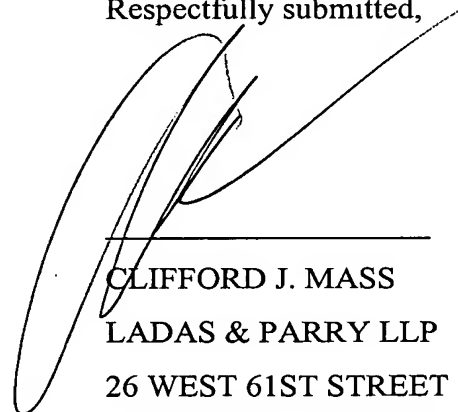
In particular, none of the cited references shows or suggests the claimed feature of the bottom wall of the recited first container having a through hole shaped and sized to permit insertion of the user's finger for each cigarette packet so as to assist the user in removing the cigarette packets from the first container. Indeed, the Examiner has respectfully not even alleged that any of the cited references shows or suggests this claim feature. In the absence of anything in any of the cited art to teach this claim feature, none of the references can be considered to anticipate the claims (see MPEP 2131.).

Furthermore Applicant submits that cited references either alone or in combination do not show or suggest all of the claim limitations and hence the claims do not set forth a *prima facie* case of obviousness.

As aforementioned, none of the cited references shows or suggests the claimed feature of the bottom wall of the recited first container having a through hole shaped and sized as claimed, and the Examiner has not even addressed this claim feature. In the absence of any articulated reasoning with rational underpinning to support a legal conclusion of obviousness for an invention with this claim feature, there is respectfully insufficient rationale to support the rejection. See Guidelines for Determining Obviousness, Federal Register of 10 October 2007, Vol. 72, No. 195, pages 57528-9.

In view of the foregoing, it is respectfully submitted that all rejections and objections of record have been overcome and that this application is now in order for allowance. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Clifford J. Mass', is written over a horizontal line.

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